

HOUSE BILL 1693
By Stanley

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 17, relative to tobacco product use.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Uniform Tennessee Clean-Air in Restaurants Act".

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by deleting § 39-17-1551 in its entirety and by substituting instead the following:

Section 39-17-1551.

(a) In protection of public health, safety and general welfare, it is the intention of the general assembly that this section reduce the extent to which the public is exposed to environmental tobacco smoke in restaurants.

(b) As used in this section, unless the context otherwise requires:

(1) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served. "Restaurant" does not include an establishment where thirty percent (30%) or less of annual revenue is derived from food sales; and

(2) "Smoking" means the burning of a lighted cigarette, cigar, pipe or any other substance containing tobacco.

(c)

(1) Except as provided in subdivision (2), smoking is not permitted, and no person shall smoke, in a restaurant.

(2) Smoking is permitted in the portion of a restaurant, licensed to serve alcoholic beverages, commonly known as a bar; provided that any such bar is clearly demarcated and separate from other seating areas within the restaurant and shall not include more than twenty-five percent (25%) of the total area of the restaurant.

(d) "No Smoking" signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained throughout all areas of a restaurant where smoking is not permitted to ensure that the public is aware of the restriction.

(e) A violation of this section is a Class B misdemeanor, punishable only by a fine.

(f) The general assembly intends by this section and other provisions of Tennessee code annotated to occupy and preempt the entire field of legislation concerning the regulation of tobacco products. Any law or regulation of tobacco products enacted or promulgated after March 15, 1994, by any agency or political subdivision of the state or any agency thereof is void; provided, that cities, counties and counties having a metropolitan form of government may regulate the use of tobacco products in buildings owned or leased by such political subdivisions; and provided further, that airport authorities created pursuant to the provisions of title 42; utility districts created pursuant to the provisions of title 7; and special school districts may regulate the use of tobacco products in buildings owned or leased by such entities. Notwithstanding any other provision of the law to the contrary, individual owners or operators of retail establishments, excluding restaurants, located within an enclosed

shopping mall shall retain the right to determine the policy on the use of tobacco products within such person's establishment.

SECTION 3. This act shall take effect July 1, 2005, the public welfare requiring it.